IN THE HIGH COURT FOR THE STATES OF PUNJUAB AND HARYANA AT CHANDIGARH

CRL.R.NO. 343 of 1995

DATE OF Decision:18.9.2007

Balbir Singh & others. ....Petitioners

Versus

State of Punjab ....Respondent

CORAM: HON'BLE MR. JUSTICE A.N. JINDAL

Present: Mr. B.S. Sidhu, Advocate, for the petitioners.
Mr. A.S. Brar, D.A.G. Punjab.

A.N. JINDAL,J.

This revision petition is directed against the judgment dated 7.4.1995 passed by Additional Sessions Judge, Faridkot, dismissing the appeal of the petitioners against the judgment dated 21.12.1993 passed by Judicial Magistrate Ist Class, Faridkot, convicting the petitioners-accused for causing grievous injuries. Consequently, they were sentenced as under:

Balbir Singh

U/s 326 IPC	:	To undergo RI for a period of two years and to pay a fine of Rs.500/-for causing injury to Gurjant Singh
U/s 326 IPC	:	To undergo RI for a period of two years and to pay a fine of Rs.500/- for causing injury to Bhola Singh.

Phuria

U/s 326IPC	:	To undergo RI for a period of two years and to pay a fine of Rs.500/-for causing injury to Gurjant Singh.

However, all the sentences were ordered to run concurrently.

The factual matrix of the case is that the case was registered on the statement of Bhola Singh, who disclosed that they are five brothers out of whom Balbir Singh was eldest and separate from them. On 21.1.1987, he and his brother Gurjant Singh alias Janta had gone to their fields. They saw Balbir Singh armed with gandasa, Mander Singh armed with dang, Phuria armed with takwa and Kaura Singh armed with Gandasa coming there. Balbir Singh exhorted that he would use 'Jhalar' to irrigate his land to which

Bhola Singh, Complainant (hereinafter referred to as the 'complainant') objected saying that the latter had no share. Then Balbir Singh exhorted to catch the complainant and himself inflicted gandasa blow to Janta Singh which hit on his left hand finger. Balbir Singh gave another gandasa blow on the head of the complainant then Phuria also inflicted takwa blow to Janta Singh on his right shoulder, then accused Kaura Singh inflicted gandasa blow near right ear of the complainant while Mander Singh inflicted dang blow to Janta Singh. On raising hue and cry, all the petitioners-accused fled away. The occurrence had taken place at 3:45 p.m. Ajmer Singh and Major Singh, who also arrived at the place of occurrence, shifted Bhola Singh and Gurjant Singh injured to the hospital. On the statement of Bhola Singh before ASI Nagour Singh PW7, recorded on 22.1.1987, formal FIR Ex. Pw4/C was registered. Investigation was commenced, rough site plan was prepared, medico legal report were collected and statements of the witnesses were recorded. On completion of the investigation challan against the petitioners was presented. Consequently, the charge against the petitioners Balbir Singh and Phuria and also remaining two accused (non petitioners) was framed under Section 326,325,324,323 read with Section 34 IPC to which they pleaded not guilty and claimed trial.

To substantiate its case, prosecution examined Dr. Karam Chand Registrar X-ray,PW1, Surjit Chand Dutta, PW2, Dr. Madan Lal Kakkar, PW3, Bhola Singh injured, PW4, Gurjant Singh, PW5, ASI Lachman Singh, PW6 and ASI Nagour Singh, PW7.

When examined under Section 313 Cr.P.C petitioners denied all the incriminating circumstances appearing against them. According to Balbir Singh, on that day, it was his turn of water but Gurjant Singh was interfering in his turn and caused him injuries. Balbir Singh caused injuries in self defence. Similarly Mander Singh pleaded that complainant party did not allow him to irrigate their land and caused them injuries and they caused injuries in their self defence. Phuria and Kaura Singh did not deny their presence but they had said that they had been falsely implicated in this case. The trial Court convicted all the accused-petitiones and their appeal was also dismissed. Out of the four accused only Balbir Singh and Phuria have preferred this revision petition.

On scrutinizing of the evidence, the trial court observed that it was a case of free fight in which the each accused was responsible for the injuries caused by them individually. The appellate court also while maintaining the judgment observed that the story set up by the prosecution of causing injuries and the plea of the private defence stands exploded. Circumstances clearly demonstrate that, it was a free fight in which all the persons caused injuries to each other without any premeditation. Under such circumstances each individual was responsible for causing injuries attributed to each individual.

During the course of arguments, learned counsel for the petitioners did not deny that there was a free fight between complainant party and petitioners. That apart, having scrutinized the testimony of injured Bhola Singh PW4 and Gurjant Singh @ Janta Singh PW5, it is observed that the dispute arose over the turn of water. Bhola Singh had gone to take the turn of water and he was attacked by the accused and suffered injuries. Their testimony stand supported by medical evidence. Dr. Madan Lal kakkar PW3 observed the following injuries on the person of Bhola Singh and Janta Singh.

On the person of Bhola Singh:-

1. An incised wound 3 cms x 0.5 cms on left side of scalp over frontal bone 2 cms to the left of midline. It was bleeding on touch.
2. An incised wound 2 cms x 0.5 cms on right side of neck 3 cms posterior to angle of mandible. It was bleeding on touch.
3. A contusion 7 cms x 1 cms on back 2 cms medial posterior axillary line over 8th to 11th ribs. It was pink in colour.
4. A cantusion 10 cms x 0.5 cms on left side of midline over back of chest at the superior border of scapula. The medial end was on middle border of scapula.
5. A contusion 5 cms x 1 cms on right side of back of chest , it was 3 cms below and parallel to superior border of scapula.
6. A contusion 3 cms x 1 cms on upper aspect of right shoulder joint. It was pink in colour.
7. A contusion 4 cms x 1 cms on lateral aspect of right arm in the middle. Its lower end was 6 cms proximal to elbow

joint. It was pink in colour.

8.A contusion 3 cms x 1 cms on posterior medial aspect of right fore-arm. 2 cms distal to elbow joint. It was in pink colour.

9.A contusion 5 cms x 3 cms on medial aspect of left thigh 2 cms above ankle joint. It was pink in colour."

On the person of Janta Singh:-

1. incised wound 7 cms x 2 cms in the web space of left ring and middle fingers. Extending on to dorsal and palmer aspect. It was bleeding on touch. X-ray was advised.
2. A lacerated wound on scalp 4 cms x 0.5 cm transversly placed at a distance of 2 cms from occipital on right side. It was bleeding on touch X-ray was advised.
3. A lacerated wound longitudely placed; 2 cms x 1 cm in size; 3 cms to the right of midline and 2 cms in front of occipital. It was bleeding on touch. X-ray was advised.
4. An incised wound 1.5 cms x 0.3 on lateral aspect of right thigh 15 cms proximal to knee joint. Depth was 0.5. cm.
5. An incised wound 1.5 cms x 0.5 cm over lateral aspect of spine of right scapula. It was skin deep X-ray was advised.
6. A contusion 3 cms x 1 cm on antrolateral aspect of left fore-arm 4 cms distal to elbow joint. It was pink in colour.
7. A contusion 4 cms x 2 cms on posterio lateral aspect of right fore-arm 1 cm proximal to wrist joint. It was pink in colour.
8. A contusion 3 cms x 1 cms in right posterio axillary line over 9^{th} and 10^{th} ribs. It was pink in colour. X-ray was advised.
9. A contusion 1 cm x 1 cm on lateral aspect of right shoulder joint. It was pink in colour.
10. A contusion 4 cms x 1 cm on lateral aspect on left leg 6

cms distal to knee joint. It was pink in colour."

According to the ocular version two grievous injuries were caused by Balbir Singh and Phuria petitioners whereas Balbir Singh also gave another grievous injury on the person of Bhola Singh, therefore, the trial Court appears to have rightly convicted them under Section 326 IPC for causing grievous injuries. The sentence for the other injuries against these petitioners probably have not been awarded for the reasons that those offences were of minor nature.

Consequently, finding no merit in the revision petition, the same is hereby dismissed.

18.9.2007 (A.N. JINDAL)
rajeev JUDGE

To be referred to reporter : Yes/no